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EXAMINER

MYINT, DENNIS Y

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2162

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10/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/658,182

Applicant(s)

BRINKMEYER, JAY C.

Examiner

Dennis Myint

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18 and 26-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18 and 26-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This communication is responsive to Applicant's Amendment, filed on August 2, 2007.
2. Claims 18, and 26-47 are pending in this application. Claims 18, 26, and 37 are independent claims. In the Amendment filed on August 2, 2007, no claims were amended. **This office action is made final.**
3. In light of the arguments made, rejection of claims 18 and 37-47 under 35 U.S.C. § 101 is hereby withdrawn.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 26-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 26-36 are directed to a computer system. According to the specification, said *computer system* is software per se. Paragraph 0014 of the specification recites "*A computer system using a queuing system and method for managing a queue having plurality of generic queue headers connected together by a plurality of links in a predetermined manner*". Additionally, Figure 1 of the instant application depicts "Queuing System 50" which is software per se. As such, said computer system is software per se and does not fall within the four

statutory categories.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 18, 26-28, 30-32, 37-39, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornaby (U.S. Patent Number 5410722) in view of Kirchner et al., (hereinafter "Kirchner", U.S. Patent Number 5706437).

As per claim 18, Cornaby teaches the limitations:

"A method for managing a queue having a plurality of queue headers within a computer system comprising the steps of:" (Cornaby, Figure 2 to Figure 3L)

"attaching a plurality of data structures to the plurality of queue headers, where each data structure is attached to one of the plurality of queue headers" (Cornaby, Figure 2-3L *which shows a plurality of queue headers wherein each queue header includes a data structure*; Column 3 Line 64 through Column 4 Line 1, i.e., *FIG. 2 is a configuration consisting of four queues, 20, 21, 22, and 23, within the queue system for the purpose of explaining the preferred*

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*embodiment of the queue system. The configuration is comprised of queue D23 which acts as the empty queue and which initially will contain all the task registers in the queue system; Note that task registers are data structures attached to queue headers; and Column 4 Lines 60-64, i.e., In view of, for simplicity in describing the invention, the task register in queues A 20, B21, and D23 are addressed ordered within the queue and the task registers in queue C23 are ordered in the sequence of insertion into the queue); and*

*"controlling operations of the plurality of queue headers utilizing one of a plurality of queue function calls" (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23);*

*"utilizing a plurality of queue function calls, wherein the function calls are configured to manage the plurality of queue operating on the data structures" (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23 ).*

Cornaby does not explicitly teach the limitation: "a function library containing a plurality of function calls".

On the other hand, Kirchner teaches the limitation:

*"a function library containing a plurality of function calls" (Kirchner, Column 8 Lines 10-36, i.e., The client application processes 902 and 904 use the client APIs 912 and 913, which include a library of generic functions as will be*

*discussed below, to connect to and communicate with the desired service module at a server 914. API functions 912 and 913 are called to make application requests for a service to the CLPROC's 906 and 908. Specifically, the function calls in the client APIs 912 and 913 will encode a NIDS message and write the NIDS message and its associated data to the CLPROC's 906 and 908 via a combined shared memory and UNIX message **queue mechanism** 922. In the CLPROC's 906 and 908, **an NSPP header** is added to the NIDS message. The path of the queue mechanism 922 between the client applications 902 and 904 and the CLPROC's 906 and 908 is shown by arrows 920 and 921, respectively. Because of the system resources within the application process 902 (ARU style model), the arrow 920 showing the path of the request message is shown to originate in the application process 902. For application process 904, the unique identification is generated within the client API 913. Thus, the arrow 921 showing the path of the request message is shown to originate at the client API 913).*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Cornaby, which teaches queue headers which are utilized to make function calls and to which data structures are attached, to combine with the method of Kirchner, which teaches a function library, so that, in the combined method, a function library containing a plurality of queue function calls is used to manage/control the data structures which are attached to queue headers. One would have been motivated to do so

in order integrate function calls of similar operations in one container, which is well known in the art of operating systems.

As per claim 26, Cornaby in view of Krichner discloses the limitations:

"A computer system that employs a queuing system, the queuing system" (Figure 2-3L) comprising:

"a plurality of generic queue headers, the plurality of generic queue headers being connected by a plurality of links" (Cornaby, Figure 2, *which shows a plurality of queues*, Abstract, and Column 1 Lines 54-64); and

"a data structure attached to at least one of the plurality of generic queue headers without reference to the plurality of links" (Cornaby, Figure 3A-3L), "wherein the plurality of queue headers are controlled" (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., *When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23*) "by a function library" (Kirchner, Column 8 Lines 10-36) "containing a plurality of function calls configured to manage the plurality of queue headers on the data structures" (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., *When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23*).

As per claim 27, Cornaby is directed to the limitation:

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"comprising a plurality of queue function calls for controlling operations of the plurality of generic queue headers" (Cornaby Abstract, i.e. "task registers").

As per claim 28, Cornaby is directed to the limitation:

"wherein the plurality of function calls includes an insert call, a search and remove call, a search and insert call, a search only call and a peek call" (Column 8 Line 5 through Column 10 Line 8 and Figure 3A-6).

As per claim 30, Cornaby is directed to the limitation:

"wherein each generic queue header includes a pointer to a next generic queue header, a pointer to a previous generic queue header, and a pointer to the attached data structure" (Column 2 Lines 14-18).

As per claim 31 Cornaby is directed to the limitation:

"wherein each generic queue header includes a dynamic queue header" (Cornaby, Abstract, i.e. *Control means is provided for dynamically assigning task registers to queues by controlling the addresses stored in the previous and next fields in each header and task registers such that each of said task registers is always assigned to a queue in the queue system*).

As per claim 32, Cornaby is directed to the limitation:

"wherein each generic queue header comprises a static queue header" (Figure 2, *which shows a plurality of static queue headers*).

Claim 37 is essentially the same as claim 26 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Claim 38 is essentially the same as claim 27 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Claim 39 is essentially the same as claim 28 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Claim 41 is essentially the same as claim 30 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Claim 42 is essentially the same as claim 31 except that it set forth the claimed invention as a method of operating a queuing system rather than a

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computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Claim 43 is essentially the same as claim 32 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

8. Claim 29 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornaby in view of Kirchner, and further in view of Douceur et al. (hereinafter "Douceur") (U.S Patent Number 6041053).

Referring to claim 29, Cornaby in view of Kirchner as applied to claim 27 above does not explicitly disclose the limitation: "a search key and a search command."

Douceur teaches the limitation: "a search key and a search command" (Douceur Abstract). Douceur is directed to a system and method classifying packets wherein each data structure includes a search key field, and one of the generic queue function calls utilizes a search command to scan each data structure attached to one of the generic queue headers until the search command matches the search key field and the operation of the one of the queue function calls is performed (Abstract of Douceur)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of using a search key field as

taught by Douceur to the system of Cornaby in view of Krichner as applied to claim 27 above so that, in the resultant system, each data structure would include a search key field, and one of the generic queue function calls utilizes a search command to scan each data structure attached to one of the generic queue headers until the search command matches the search key field and the operation of the one of the queue function calls is performed. One would have been motivated to do so in order to provide "a search technique capable of rapidly retrieving stored information from a data structure" (Douceur et al., Column 3 Line 54-58).

Claim 40 is essentially the same as claim 29 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

9. Claim 35 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornaby in view of Krichner and further in view of Peterson et al. (hereinafter "Peterson", U.S Patent Application Publication Number 2006/0010420).

Referring to claim 35 Cornaby in view of Kirchner does not explicitly teach the limitation: "wherein the queuing system comprises a portion of an operation system".

Peterson teaches the limitation:

“wherein the queuing system comprises a portion of an operation system”  
(Paragraph 0092, i.e., *poll the operating system even queue*).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of using queues as part of an operating system, as taught by Peterson, to the method of Cornaby in view of Kirchner so that, in the resultant method would, the queuing system would comprise a portion of an operating system. One would have been motivated to do so because it is notoriously well known in the art that queuing systems are part of modern operating system.

Claim 46 is essentially the same as claim 35 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

10. Claim 36 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornaby in view of Kirchner and further in view of Fischer et al. (hereinafter “Fischer”) (U.S Patent Application Publication Number 2002/0163932).

Referring to claim 36 Cornaby in view of Kirchner does not explicitly teach the limitation: “wherein the queuing system comprises a portion of a driver”.

Fischer teaches the limitation: “wherein the queuing system comprises a portion of a driver” (Paragraph 0500, i.e., *queues that lie within the device driver*).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of using a queuing system as portion of driver as taught by Fischer to the method Cornaby in view of Kirchner so that, in the resultant method, the queuing system would comprise a portion of a driver. One would have been motivated to do so because it is well known in the art that device drivers comprise internal queuing systems.

Claim 47 is essentially the same as claim 36 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

11. Claim 33, 34, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornaby in view of Kirchner, and further in view of Johnson et al. (hereinafter "Johnson") (U.S. Patent Number 5133053).

Referring to claim 33 Cornaby in view of Kirchner does not explicitly teach the limitation: "each of the plurality of links is uni-directional."

Johnson teaches the limitation: "each of the plurality of links is uni-directional" (Column 10 Lines 61-64). Johnson teaches a system and method for interprocess communication queue location transparency, wherein bi-directional queues are employed to be more efficient for request and reply (Column 10 Line 61-64). Note that bi-directional queues implemented in said manner could also

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function as unidirectional queues. Unidirectional feature is already inherent in a bidirectional queuing system.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the feature of unidirectional/bidirectional queues as taught by Johnson et al. with the system taught Cornaby in view of Kirchner so that, in the combined system, each of the plurality of links is uni-directional. One would have been motivated to do so in order to "be more efficient for request and reply" (Johnson et al, Column 10 Line 61-64).

Claim 34 is rejected on the same basis as claim 33.

Claim 44 is essentially the same as claim 33 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Claim 45 is essentially the same as claim 34 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

### ***Response to Arguments***

12. Applicant's arguments filed on August 2, 2007, have been fully considered but are not persuasive.

Applicant argued that *with respect to claims 26-36, it appears that the Examiner is rejecting the claims under section 101 because they are directed to software. In this regard, Applicant respectfully asserts that software patentable subject matter. The Commissioner of Patents has recognized the patentability of software, provided that it is embodied in a tangible medium* (Applicant's argument, page 12 fourth paragraph), that *It is clear from the specification and claims themselves that the queuing system is intended to be implemented in a tangible medium. Indeed claim 26 is directed to a "computer system that employs a queuing system". Independent claims 18 and 37 are expressly to the operation of a queuing system. Applicant respectfully asserts that one of ordinary skill in the art would understand that the presence of a queuing system, which inherently stores multiple items of data, necessarily implies that the data is stored on a tangible medium (for example, disk memory or the like)* (Applicant's argument page 12 last paragraph through page 13 first paragraph).

Examiner respectfully disagrees all of the allegations as argued. Examiner, in his previous office action, gave detail explanation of claimed limitation and pointed out exact locations in the cited prior art. Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1] Interpretation of Claims-Broadest Reasonable Interpretation.

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

In response it is pointed out that said independent claim fails to expressly recite tangible medium. In addition, there is no support at all in the specification of the instant application on the use of tangible medium. Particularly, Paragraph 0014 of the specification recites "*A computer system using a queuing system and method for managing a queue having plurality of generic queue headers connected together by a plurality of links in a predetermined manner*".

Additionally, Figure 1 of the instant application depicts "Queuing System 50" which is software per se. As such, said computer system is software per se and does not fall within the four statutory categories.

Referring to rejection of claims 18, 26, and 37 under 35 U.S.C. 103 (a), Applicant argued that *the Cornaby reference and the Kirchner reference, taken alone or in hypothetical combination, do not disclose each and every element recited by the claims* (Applicant's argument, page 17 last paragraph), that *there is absolutely no teaching, suggestion, or illustration in the Cornaby reference regarding controlling operations of the plurality of queue headers utilizing queue function calls and utilizing a plurality of queue function calls, wherein the function calls are configured to manage the plurality of queue operating on the data*

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*structures. Indeed, Applicant notes that Cornaby contains no discussion of function calls at all (Applicant's argument, page 18 last paragraph through page 19 first paragraph), that as such Kirchner reference does not disclose anything with regard to function calls controlling or managing queue headers (Applicant's argument, page 19 last paragraph), that Applicant respectfully asserts that the Cornaby reference and the Kirchner reference; taken alone or in hypothetical combination, fail to disclose all limitations of independent claims 18, 26, and 37 and consequently cannot render obvious any of those claims (Applicant's argument page 20 second paragraph).*

In response, it is pointed out that Cornaby in view of Kirchner teaches each and every limitation of the independent claims 18, 26, and 37 as follows. As per claim 18, Cornaby teaches the limitations: "A method for managing a queue having a plurality of queue headers within a computer system comprising the steps of:" (Cornaby, Figure 2 to Figure 3L), "attaching a plurality of data structures to the plurality of queue headers, where each data structure is attached to one of the plurality of queue headers" (Cornaby, Figure 2-3L *which shows a plurality of queue headers wherein each queue header includes a data structure*; Column 3 Line 64 through Column 4 Line 1, i.e., *FIG. 2 is a configuration consisting of four queues, 20, 21, 22, and 23, within the queue system for the purpose of explaining the preferred embodiment of the queue system. The configuration is comprised of queue D23 which acts as the empty queue and which initially will contain all the task registers in the queue system; Note that task registers are data structures attached to queue headers; and*

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Column 4 Lines 60-64, i.e., *In view of, for simplicity in describing the invention, the task register in queues A 20, B21, and D23 are addressed ordered within the queue and the task registers in queue C23 are ordered in the sequence of insertion into the queue*); and “controlling operations of the plurality of queue headers utilizing one of a plurality of queue function calls” (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., *When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23*); “utilizing a plurality of queue function calls, wherein the function calls are configured to manage the plurality of queue operating on the data structures” (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., *When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23* ).

Cornaby does not explicitly teach the limitation: “a function library containing a plurality of function calls”. On the other hand, Kirchner teaches the limitation: “a function library containing a plurality of function calls” (Kirchner, Column 8 Lines 10-36, i.e., *The client application processes 902 and 904 use the client APIs 912 and 913, which include **a library of generic functions** as will be discussed below, to connect to and communicate with the desired service module at a server 914. API functions 912 and 913 are called to make application requests for a service to the CLPROCs 906 and 908. Specifically, the function calls in the client APIs 912 and 913 will encode a NIDS message and write the NIDS message and its associated data to the CLPROCs 906 and 908*

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*via a combined shared memory and UNIX message **queue mechanism** 922. In the CLPROCs 906 and 908, an **NSPP header** is added to the NIDS message. The path of the queue mechanism 922 between the client applications 902 and 904 and the CLPROCs 906 and 908 is shown by arrows 920 and 921, respectively. Because of the system resources within the application process 902 (ARU style model), the arrow 920 showing the path of the request message is shown to originate in the application process 902. For application process 904, the unique identification is generated within the client API 913. Thus, the arrow 921 showing the path of the request message is shown to originate at the client API 913).*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Cornaby, which teaches queue headers which are utilized to make function calls and to which data structures are attached, to combine with the method of Kirchner, which teaches a function library, so that, in the combined method, a function library containing a plurality of queue function calls is used to manage/control the data structures which are attached to queue headers. One would have been motivated to do so in order integrate function calls of similar operations in one container, which is well known in the art of operating systems.

As per claim 26, Cornaby in view of Krichner discloses the limitations:

"A computer system that employs a queuing system, the queuing system" (Figure 2-3L) comprising: "a plurality of generic queue headers, the plurality of generic queue headers being connected by a plurality of links" (Cornaby, Figure

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2, *which shows a plurality of queues*, Abstract, and Column 1 Lines 54-64); and "a data structure attached to at least one of the plurality of generic queue headers without reference to the plurality of links" (Cornaby, Figure 3A-3L), "wherein the plurality of queue headers are controlled" (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., *When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23*) "by a function library" (Kirchner, Column 8 Lines 10-36) "containing a plurality of function calls configured to manage the plurality of queue headers on the data structures" (Cornaby, Figure 2-3L; and Column 4 Lines 2-5, i.e., *When the processor 10 receives a task to be performed by using the queue system, the task is assigned to the task register having the lowest address in queue D23*).

Claim 37 is essentially the same as claim 26 except that it set forth the claimed invention as a method of operating a queuing system rather than a computer system that employs a queuing system and rejected for the same reasons as applied hereinabove.

Referring to claims 29 and 40, Applicant argued that *Applicant respectfully asserts that the Douceur reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* (Applicant's argument, page 21 second paragraph).

In response, it is pointed out that, claims 29 and 40 are rejected over the combination of Cornaby in view of Kirchner and further in view of Douceur and, as discussed in details above, Cornaby in view of Kirchner teaches each and

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every limitations of claims 18, 26, and 37. As such, Applicant's argument that *Douceur reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* is moot.

Referring to claims 35 and 46, Applicant argued that *Applicant respectfully asserts that the Peterson reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* (Applicant's argument, page 22 second paragraph).

In response, it is pointed out that, claims 35 and 46 are rejected over the combination of Cornaby in view of Kirchner and further in view of Peterson and, as discussed in details above, Cornaby in view of Kirchner teaches each and every limitations of claims 18, 26, and 37. As such, Applicant's argument that *Peterson reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* is moot.

Referring to claims 36 and 47, Applicant argued that *Applicant respectfully asserts that the Fischer reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* (Applicant's argument, page 23 last paragraph).

In response, it is pointed out that, claims 36 and 47 are rejected over the combination of Cornaby in view of Kirchner and further in view of Fischer and, as discussed in details above, Cornaby in view of Kirchner teaches each and every limitations of claims 18, 26, and 37. As such, Applicant's argument that *Fischer reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* is moot.

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Referring to claims 33, 34, 44, and 45, Applicant argued that *Applicant respectfully asserts that the Johnson reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* (Applicant's argument, page 24 last paragraph).

In response, it is pointed out that, claims 33, 34, 44, and 45 are rejected over the combination of Cornaby in view of Kirchner and further in view of Johnson and, as discussed in details above, Cornaby in view of Kirchner teaches each and every limitations of claims 18, 26, and 37. As such, Applicant's argument that *Johnson reference fails to fails to obviate the deficiencies of the Cornaby and Kirchner references with respect to independent claims 26 and 37* is moot.

In view of the above, the examiner contends that all limitations as recited in the claims have been addressed in this Action. For the above reasons, Examiner believed that rejection of the last Office action was proper.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Contact Information**

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Myint whose telephone number is (571) 272-5629. The examiner can normally be reached on 8:30AM-5:30PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-5629.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dennis Myint

Examiner

AU-2162

  
JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
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